

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Auction of Licenses in the 747-762 and	)	DA 00-1075
777-792 MHz Bands Scheduled for	)	
September 6, 2000	)	

To: Chief, Wireless Telecommunications Bureau

**COMMENTS OF VOICESTREAM WIRELESS CORPORATION**

VoiceStream Wireless Corporation ("VoiceStream"), by its attorneys, hereby responds to the Wireless Telecommunications Bureau's Public Notice, released May 18, 2000, requesting comments on allowing combinatorial bidding for the 747-762 and 777-792 MHz bands auction ("Auction No. 31") scheduled for September 6, 2000.<sup>1</sup> In support hereof, it is respectfully shown as follows:

**Statement of Interest**

VoiceStream is a leading provider of wireless communications services in the United States. It provides personal communications services using the globally-dominant Global System of Mobile Communications ("GSM") technology and is a member of the North American GSM Alliance LLC. That alliance is composed of U.S. and Canadian digital wireless PCS carriers that work together to provide roaming for their domestic GSM customers in more than 3,500 U.S. and Canadian cities and towns, and also offer service to international roamers.

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<sup>1</sup> See Public Notice, Auction of Licenses in the 747-762 and 777-792 MHz Bands Scheduled for September 6, 2000 -- Comment Sought on Modifying the Simultaneous Multiple Round Auction Design to Allow Combinatorial (Package) Bidding, DA 00-1075, Report No. AUC-00-31-G (rel. May 18, 2000) ("PN").

Participation in the 700 MHz auction is important to VoiceStream's potential ability to provide advanced wireless services to customers throughout the United States. The licenses at stake in Auction No. 31 will help VoiceStream fill gaps in its national footprint and enable the company to compete with well-established national carriers. As such, VoiceStream is interested in assuring that the procedures ultimately adopted for Auction No. 31 are simple and afford maximum flexibility to bidders. In VoiceStream's view, the combinatorial bidding proposal does not fulfill those objectives.

### **Background**

Section 309(j)(3) of the Communications Act of 1934, as amended, directs the Commission, directly or by contract, "to provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round."<sup>2</sup> In proposing service rules for the 700 MHz band, the Commission sought comment on whether Auction No. 31 presented a suitable context to implement a combinatorial bidding system.<sup>3</sup> In its First Report and Order ("R&O"), released January 7, 2000, the Commission announced that Auction No. 31 was not an appropriate forum for combinatorial bidding.<sup>4</sup> Noting that "[t]o date we have not yet tested or employed combinatorial bidding, which involves numerous complications for both the Commission

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<sup>2</sup> 47 U.S.C. § 309(j)(3).

<sup>3</sup> See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, 14 FCC Rcd 11006, 11017, 11046 (1999).

<sup>4</sup> See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, 15 FCC Rcd 476, ¶ 124 (rel. Jan. 7, 2000) ("R&O").

and bidders,” the Commission concluded that it “should not use this complex and untested spectrum design for the 747-762 MHz and 777-792 MHz bands, especially in light of the statutory deadline imposed here.”<sup>5</sup>

In its May 18th Public Notice (“PN”) the Bureau revisited the Commission’s decision, stating that “in light of (1) the announced delay of the auction until September 6, 2000; and (2) the continued progress in the design and testing of a combinatorial bidding system...the [Bureau] now believes that sufficient time may exist to implement such a system.”<sup>6</sup> The Bureau, therefore, seeks comments on its proposed system and procedures for implementing combinatorial bidding, in case the Commission, in conjunction with other reconsideration issues, decides to allow combinatorial bidding.

### **Analysis and Comments**

In VoiceStream’s view, nothing has occurred since the release of the R&O to alter the Commission’s conclusion that the 700 MHz auction is an inappropriate forum for testing a complex combinatorial bidding system. As noted in the PN, in early May, the Commission sponsored a conference on combinatorial bidding where scholars and experts, under contract with the FCC, presented their views on combinatorial bidding and conducted bidding experiments. However, the system has not been tested in the context of an actual auction, and, while the Commission may be anxious to employ the novel technique it is developing, the 700 MHz auction is far too important to be used as a guinea pig. The 700 MHz bands will be used to meet exploding consumer demand for advanced or Third Generation (“3G”) wireless services. As the Commission noted in the

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<sup>5</sup> Id.

<sup>6</sup> PN at 1-2.

R&O, the 700 MHz bands have the potential to support “high-speed Internet access in competition with digital subscriber loop and cable modem operators”; they will also fill the crucial demand for “new fixed wireless service in underserved areas, as well as next generation, high-speed mobile services.”<sup>7</sup> The findings and tests of a single conference do not support the overhaul of decisions that were put in place nearly six months ago with respect to auctioning this extremely important spectrum.

Having participated in every broadband PCS auction to date (either directly or indirectly through non-attributable interests in “entrepreneurs”), VoiceStream believes that it is among the most seasoned and sophisticated bidders. All told, VoiceStream and its partners and predecessors have spent or committed to spend, on a combined basis, several hundred million dollars on successful bids in broadband PCS auctions. Yet, in spite of its substantial expertise, VoiceStream believes that the rules for combinatorial bidding are unusually complicated and that it will be extraordinarily difficult to create software to track the auction and develop bidding strategies.

In designing methodologies to implement competitive bidding, the Commission must seek to promote “economic opportunity and competition...avoiding excessive concentration of licenses and...disseminating licenses among a wide variety of applicants.”<sup>8</sup> With respect to the 700 MHz auction, combinatorial bidding would severely disadvantage all but the very largest national companies, those with pockets deep enough to make the steep upfront payments required for a national or global package. Acquiring the software needed to participate in a combinatorial bidding auction

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<sup>7</sup> R&O at ¶ 4.

<sup>8</sup> 47 U.S.C. § 309(j)(3)(B).

would also be extremely costly. Moreover, bidders for individual licenses and regional packages will be hindered by the “threshold problem,” which, as the Bureau acknowledges, “is the difficulty that multiple bidders desiring only single licenses (or smaller packages) that constitute a package may have in outbidding a single bidder that is bidding for the entire package, even though the multiple bidders may value the sum of the parts more than the single bidder values the whole.”<sup>9</sup> Realistically, only the most well-financed and technologically sophisticated national players could effectively participate in the auction, thereby defeating the Commission’s directive to promote a diverse marketplace. Moreover, by diminishing participation, the combinatorial bidding system could actually minimize the government’s economic gain.

Combinatorial bidding is also antithetical to the Commission’s directive to promote rapid deployment of services to the public in designing and implementing bidding methodologies.<sup>10</sup> Individual license winners have a strong economic incentive to develop and market services expeditiously in areas they have won. They are also likely to have the benefit of operating experience in that region. A package winner, on the other hand, is less likely to quickly deploy service in every region it has won. The national winner may lack relevant experience with respect to a particular region. Moreover, although a bidder may wish to acquire licenses to provide service in only five of six regional areas, it may prove more efficient to bid on a national package than to bid on individual licenses for the five areas. A national package winner may lack economic incentive to develop and deploy services in the region that it acquired merely as a

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<sup>9</sup> PN at 2.

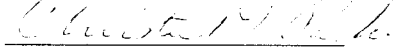
<sup>10</sup> See 47 U.S.C. § 309(j)(3)(A).

byproduct of its efficient bidding strategy. This type of bidding strategy leads to the “threshold problem,” which, as noted above, results when bidders for individual licenses cannot outbid a package bidder, even though they value the sum of the parts more than the package bidder values the whole.<sup>11</sup> Clearly, the public is not served by building such disincentives into the auction design.

### **Conclusion**

For the foregoing reasons, VoiceStream believes that Auction No. 31 continues to be an inappropriate forum for testing combinatorial bidding. VoiceStream, therefore, opposes the Bureau’s proposed combinatorial bidding system for Auction No. 31.

Respectfully submitted,

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<sup>11</sup> PN at 2.

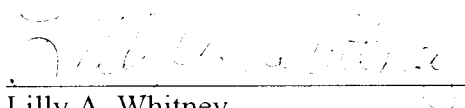
**CERTIFICATE OF SERVICE**

I, Lilly A. Whitney, a secretary in the law offices of Morrison & Foerster L.L.P., do hereby certify that I have on this 9th day of June, 2000, had copies of the foregoing "COMMENTS OF VOICESTREAM WIRELESS CORPORATION" sent via hand delivery, to the following:

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